IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

Crl.MC.No. 81 of 2007()

AGAINST THE ORDER DATED / / IN CC390/03,CC814/03 IN CC.796/2002 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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PETITIONER:

SURESH CHANDRAN, ARUN SADANAM,
PERUNNAD P.O., RANNY, PATHANAMTHITTA DIST.,
NOW RESIDING AT POST BOX NO.3943, DUBAI.

BY ADV. SRI.RINNY STEPHEN

RESPONDENTS:

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1. LILLIKUTTY SAMUEL,
ALLACKAL PUTHENVEEDU, CHIRRAKADDAVUM MURI,
KAYAMKULAM VILLAGE.

2. M.K.SUDEVAN, SUNIL NIVAS,
PUTHUPPALLY NORTH MURI, PUTHUPPALLY VILLAGE,
KAYAMKULAM.

3. THANKAMMAL, KOVILLAKKATHU THEKKETHIL,
KRISHNAPURAM P.O., KRISHNAPURAM VILLAGE,
KAYAMKULAM.

4. DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA.

5. VILLAGE OFFICER, VILLAGE OFFICE,
PERUNNAD P.O.

BY P.P. SRI. K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 81 OF 2007

Dated this the 11th day of January, 2007

ORDER

The petitioner is the accused in three prosecutions pending before the learned Judicial Magistrate of the First Class, Kayamkulam. All are under Sec.138 of the N.I. Act, it is submitted. The cases were registered as early as in 2002 and 2003. After issue of summons, the petitioner entered appearance through counsel. He has not entered appearance personally so far. This is obliged the learned Magistrate to initiate steps under Secs.82 and 83 of the Cr.P.C. against the petitioner. The petitioner has come to this Court complaining about the inadequacy in the procedure adopted by the learned Magistrate under Secs.82 and 83 of the Cr.P.C. It is prayed that powers under Sec.482 of the Cr.P.C. may be invoked in favour of the petitioner and the proceedings initiated under Secs.82 and 83 of the Cr.P.C. may be quashed.

2. Has the petitioner now appeared before the learned Magistrate? Why he has not done the same? I find no satisfactory answers forthcoming. It is evident that the

petitioner had entered appearance through counsel before the court below long earlier. No satisfactory explanation is offered as to why the petitioner could not appear before the learned Magistrate all these years. I am not persuaded to agree that the powers under Sec.482 of the Cr.P.C. can, ought or deserve to be invoked in favour of a person like the petitioner who has not done justice to the system and has not co-operated with the system in the expeditious disposal of the cases initiated against him. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate why he could not earlier appear before the learned Magistrate. He can certainly raise objections about the inadequacy of the procedural requirements in the issue of notice under Secs.82 and 83 of the Cr.P.C. At any rate, I am not persuaded to invoke the extraordinary inherent jurisdiction available to this Court under Sec.482 of the Cr.P.C. in favour of the petitioner. Such jurisdiction has to be invoked sparingly and in exceptional case in aid of justice to prevent the failure or miscarriage of justice. The petitioner does not certainly fill the bill.

3. This Crl.M.C. is accordingly dismissed.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judges